

REMARKS

Upon entry of the present amendment, the claims in the application are claims 14 and 24-26 .

35 USC 103 REJECTIONS

Applicant respectfully traverses the 35 USC 103 rejections of the previous claims, especially in view of the present claims.

The main feature of the claimed invention is the arrangement of the needles in the base member in such a way, that each needle fixed in the base member is surrounded by needles comprised of materials and coatings with different electrochemical potentials.

This very important feature produces galvanic micro-currents in the user's epidermis either between different materials of the needle which is coated (i.e., between the material of the needle and the material of the coating) and between neighboring needles (i.e., each needle creates two or more micro-currents with each neighboring needle).

Electric lines of force created by these micro-currents arise in perpendicular planes and interact with one another.

Thus, a complex spatial heterogeneous electric field is created in the user's epidermis.

The resulting heterogeneity of the electro-bio-chemical condition of the user's epidermis by the interaction with the different materials of the sharpened portions of the needles provides an independent regulation of the micro-currents parameters between the needles and the micro-currents between different materials of different needles.

The transfer of a significant amount of microelements from the needle material and its coating also occurs and increases this transfer.

Thus, this very important feature provides positive effect of the invention which is not described or made obvious by the cited art, taken singly or in combination.

Gabrusenok describes a needle for acupuncture with material partially coating the needle which is different from the material the needle made of. However, the arrangement of needles comprised from different materials in the base member, which gives the positive effect, as specified in applicant's claims is not disclosed or made obvious by the cited art, taken singly or in combination.

Moreover, an additional advantage of the claimed invention is the stable needle fixation in the elastic base member, which provides the following new features.

The stable needle fixation in the base member with the possibility of deviation from the vertical axis of the needle helps to redistribute the pressure forces on the user's skin area, preventing it from the injury.

It is also combines with the reliability of the needle fixation into the two-layered elastic base while heating, plus the simplicity of the claimed applicator.

The fact that the base is elastic is mentioned in the abstract of the application.

The OA concedes that Choi does not disclose the needles having enlarged head portions lying in a single plane.

The OA also concedes that the combination of Choi and Wybrants fails to disclose the needles as being partially coated with a coating.

Applicant respectfully submits that making the modifications to the cited art suggested in the OA:

- 1) do **not** meet the limitations of the amended claims; and
- 2) may appear to be obvious to the **Examiner** with hindsight **after reading**

applicant's specification which is **not** the standard of 35 USC 103 (which, in contrast, requires obviousness to the mythical **PHOSITA at the time the invention was made**); and

3) would **not** be obvious to the mythical **PHOSITA**.

Furthermore, there is no suggestion in the art to combine the art as suggested in the OA.

Furthermore, no PHOSITA would want to apply the partial coating of Gabrusenok to the Choi needles as described a Choi col. 5, lines 28-33, and col.6, line 25. Indeed, such a combination would be inoperable and/or would embody great technological difficulties.

It is also important to note that all of Choi's and Gabrusenok's needles lack a head portion as defined by applicant's claims.

Moreover, if the prior art references as a whole do **not** teach, suggest or motivate combining such references as proposed by the OA, then they may **not** be combined as proposed by the OA.

Indeed, the mere fact that the prior art can be modified does **not** make the modification obvious **unless the prior art suggests the desirability of the modification**.

In light of the foregoing, applicant respectfully requests reconsideration of the obviousness rejection with a view toward withdrawing same, especially in view of the present claims.

Applicant attaches hereto the claims as allowed in the counterpart Canadian patent application.

Conclusion

The application is now believed to be in condition for allowance, and a notice to this effect is earnestly solicited.

If the Examiner is not convinced that the application is in condition for allowance, it is respectfully requested that the Examiner promptly telephone the undersigned attorney for applicant in an attempt to facilitate the prosecution, and/or to narrow the issues for appeal, if necessary.

Favorable reconsideration is respectfully requested.

Respectfully submitted,

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